



STATE OF HAWAII
DEPARTMENT OF HEALTH

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**Testimony in OPPOSITION to SCR 172 and SR 86
URGING THE DEPARTMENT OF HEALTH TO ADOPT RULES FOR
UNDERGROUND STORAGE TANKS AND TANK SYSTEMS THAT CONFORM
WITH RECENT REVISIONS TO FEDERAL REGULATIONS AND INCLUDE
ADDITIONAL REQUIREMENTS FOR CERTAIN FIELD-CONSTRUCTED
UNDERGROUND STORAGE TANKS**

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MILITARY AFFAIRS

Hearing Date: March 24, 2017
Time: 1:15 pm

Room Number: 224

1 **Fiscal Implications:** No funding is provided to implement this measure.

2 **Department Testimony:** The Department respectfully opposes these resolutions. These
3 resolutions require certain field-constructed underground storage tanks (USTs), i.e. the Red Hill
4 Bulk Fuel Storage Facility, to be upgraded to secondary containment and to have a leak detection
5 system that is able to identify a 0.5 gallon per hour leak rate, among other things. These
6 requirements, in particular, stand in the way of the Department's current enforcement strategy of
7 developing, with the relevant technical experts, customized, and therefore potentially superior,
8 improvements for fuel storage at Red Hill.

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10 The Department's top priority is the protection of public health and the environment.
11 Hence, in response to the January 2014 release of 27,000 gallons of fuel from Red Hill, the
12 Department along with the Department of the Attorney General and the United States
13 Environmental Protection Agency (EPA) evaluated several regulatory enforcement options. The
14 agencies recognized that upgrading the Red Hill facility would be a technically complex and
15 expensive task. In brief, the Department and EPA, through this deliberative evaluation process,
16 decided to issue an Administrative Order on Consent (AOC). The AOC was agreed to on
17 September 28, 2015 by all parties involved. Adopting rules for the Red Hill tanks, as these
18 resolutions would have the Department do, significantly interferes with the collaborative process

1 envisioned by the Department and agreed to by the parties to the AOC to develop and evaluate
2 new and better technologies.

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4 The Department strongly believes that the AOC continues to be the best and most
5 comprehensive path forward to protect our drinking water resources while requiring the Navy
6 and Defense Logistics Agency (DLA) to improve their facility in order to continue to operate
7 | their fuel storage activities. The rulemaking encouraged by these resolutions poses a threat to the
8 viability of the AOC. The Department made a commitment to follow through on the AOC and
9 continues to strongly believe that the AOC is the most effective vehicle for environmental
10 enforcement under the circumstances.

11
12 The Department agrees that in order for the Red Hill facility to operate in a manner that is
13 most protective of the environment, we must evaluate and implement operational improvements
14 and tank upgrades. Secondary containment is currently being considered and remains an option
15 for further consideration. But for context, the largest double-wall UST in Hawaii has a capacity
16 of 40,000-gallon. This tank was constructed on the mainland and shipped to Hawaii. The fact
17 that there is no off-the-shelf tank that can store 12.6 million gallons of fuel strongly suggests the
18 need to thoroughly study the question of its feasibility. Due to the unprecedented and massive
19 scale of this unique facility, rushing to implement secondary containment may not result in the
20 safest and best practicable solution. Again, the Department considers the AOC the best means
21 by which to explore alternative solutions to very complex structural and engineering challenges.

22
23 Under the AOC, the Navy is completing a tank upgrade alternative report and is also
24 working on procedures to improve inspection, repair and maintenance, release detection,
25 corrosion and fatigue, groundwater protection, and risk and vulnerability. The current evaluation
26 of tank upgrade alternatives has included designs that will improve integrity, reliability and
27 provide a credible means of leak detection and/or fuel containment. The AOC allows the
28 Department to continue to have unprecedented access to the technical experts at EPA, the Navy
29 and DLA, and the many contractors employed by them, while the parties determine the best
30 technology to apply to the Red Hill tanks. Under this agreement, EPA and the Department have
31 the procedural mechanisms to ensure that the Navy and DLA implement the improvements in a
32 timely fashion while also ensuring that the improvements made are those that are the most
33 protective of drinking water sources in the long term. Following this first upgrade decision, the
34 Navy and DLA will install that technology as soon as reasonably possible.

35
36 The Tank Upgrade Alternative (TUA) is only one of a number of key components of the
37 AOC, albeit a critically important one. This highly anticipated final version of TUA is scheduled
38 for completion by December 8, 2017. Subsequently, the Department and EPA will select the
39 Best Available Practicable Technology (BAPT) as the first required upgrade that the Navy must
40 implement, in order to continue to operate their tanks. The determination of BAPT alternatives
41 and the selection of a particular technology is highly technical and any disruptions of this work is
42 likely to be very counter-productive. The AOC is comprehensive and covers far more areas of
43 concern than the rules proposed by the resolutions. In addition to tank upgrades, it requires an

1 extensive improvement of the understanding of the hydrology of the area surrounding Red Hill,
2 including the aquifer, and improvements to the way that the Red Hill facility is operated. Most
3 importantly, however, all of the requirements of the AOC, including its deadlines, are
4 enforceable pursuant to the agreed upon mechanisms of the AOC itself. The Department is fully
5 committed to making sure that the Navy meets all deadlines.

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7 The Department is already in the process of revising our rules to include new provisions
8 of the 40 CFR Part 280 that were promulgated by EPA on July 15, 2015. We intend to adopt
9 new rules by October 2018.

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11 Thank you for the opportunity to testify on this measure.